

REMARKS

In the outstanding Office Action, the Examiner required that Applicants elect for prosecution one of the inventions of:

Group I (Claim 1), drawn to a protein, classified in class 530, subclass 350; or

Group II (Claims 2-6), drawn to a DNA, cDNA, expression vector, or a transformed eucaryotic cell, classified in class 536, subclass 23.1 as well as class 435, subclasses 320.1 and 325..

In response, Applicants hereby elect to prosecute the invention of Group II, namely Claims 2-6.

In the Office Action, the Examiner further requires that Applicants elect a single nucleotide sequence. The Examiner notes:

that the multitude of sequence submissions of examination has resulted in an undue search burden if more than one nucleic acid sequence is elected, thus making the previous waiver for up to 10 elected nucleic acid sequences effectively impossible to reasonably implement.

Applicants do not know what "multitude of sequence submissions" refers to. Nor, in any event, are they aware of any bases in law for the Examiner summarily disregarding the Commissioner's guidelines. Nothing relevant in MPEP §803.04 or 1192 O.G. 68 is read as being optional or discretionary. To the contrary, in all unexceptional cases, ten sequences will be permitted simultaneous examination. "Exceptional" cases are due to the complex nature of the claimed subject matter, e.g., when proteins claims recite particular

three dimensional structure. However, Applicants are not claiming proteins and there is nothing complex about their nucleotides.

Nonetheless, in response, Applicants elect SEQ ID NO: 11 from HP 01550. It is assumed that SEQ ID NO: 21, at least will be joined. In view of the foregoing, Applicants further request the opportunity to add to the elected sequence nine additional sequences, namely SEQ ID NOS: 12-20. In that event, it is reasonably expected that SEQ ID NOS:22-30 will be joined as well.

Entry hereof is earnestly solicited.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,



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